



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA  
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080  
(916) 322-2270 • FAX (916) 324-3984  
www.boe.ca.gov

BETTY T. YEE  
First District, San Francisco

SEN. GEORGE RUNNER (RET.)  
Second District, Lancaster

MICHELLE STEEL  
Third District, Orange County

JEROME E. HORTON  
Fourth District, Los Angeles

JOHN CHIANG  
State Controller

CYNTHIA BRIDGES  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING**  
**5901 Green Valley Circle, Room 207, Culver City**  
**February 26-28, 2013**  
**NOTICE AND AGENDA**  
**Meeting Agenda (as of 2/27/2013, 1:00 PM)**

[Agenda Changes](#)

[Webcast on Tuesday, February 26, 2013](#)

**Tuesday, February 26, 2013**

**9:30 a.m. Board Committee Meeting Convenes\***

**Board Meeting convenes upon Adjournment of the Board Committee Meeting\*\***

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

**Board Committee Meeting\***

[Legislative Committee](#) .....Mr. Horton, Committee Chairman

**I. 2013 Legislative Proposals**

Set forth below are suggestions for property taxes and business taxes legislation to be sponsored by the BOE in the first year of the 2013-14 Legislative Session.

**~~2013 Legislative Proposals: Property Taxes~~**

~~1-1 Amend Government Code Sections 15640, 15642, and 15643, related to the Assessment Practices Survey Program to allow the BOE to evaluate more thoroughly the state's largest counties.~~

**2013 Legislative Proposals: Business Taxes**

2-3 Amend Section 6591.5 of the Revenue and Taxation Code to revise the interest calculation provisions in all BOE administered tax and fee programs. This proposal requires the rate of interest allowed on overpayment refunds to equal the rate of interest calculated on late payments.

- 2-4 Add Revenue and Taxation Code Sections 7153.6 and 55363.5 to the Sales and Use Tax Law and Fee Collection Procedures Law, respectively, to specify that any person who knowingly sells, purchases, installs, transfers or possesses software programs that falsify electronic sales records is guilty of a felony and subject to applicable criminal penalties.

### **2013 Legislative Proposals: Business Taxes: Sales and Use Taxes**

- 3-2 Add Revenue and Taxation Code Section 6452.5 to the Sales and Use Tax Law to require that taxpayers file amended returns for specified overpayments and underpayments.

Amend Revenue and Taxation Code Section 6904 to allow taxpayers to submit claims for refund via electronic media.

## **II. 2013 Legislative Bills**

### **Recommendations for Board Position**

- AB 143 Exempts from use tax the purchase and use of tangible personal property, other than a vehicle, vessel, or aircraft, purchased by an active duty member of the U. S. Armed Forces transferred to California. (Holden)
- AB 163 Removes the January 1, 2014 sunset date related to a sales and use tax exemption for specified military-related nonprofit thrift stores. (Atkins)

### **Board Meeting\*\***

- A. Homeowner and Renter Property Tax Assistance Appeals Hearings  
There are no items for this matter.

- B. Corporate Franchise and Personal Income Tax Appeals Hearings**  
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

~~B1. Bret A. Curtis and Yecenia M. Curtis, 594236~~

~~For Appellants: Bret Curtis, Taxpayer  
Steve Mather, Attorney~~

~~For Franchise Tax Board: Michael Cornez, Tax Counsel  
Karen Smith, Tax Counsel~~

**B2. Richard B. Pallack, 527752 +**

For Appellant: Richard B. Pallack, Taxpayer  
Ronald Lynn, Representative  
Carlos Morgner, Representative

For Franchise Tax Board: Kristen Kane, Tax Counsel  
Bill Hilson, Tax Counsel

- B3. Brian D. Adler and Cheryl Adler, 601347 +**  
For Appellants: Jonathan A. Brod, Attorney  
For Franchise Tax Board: Raul Escatel, Tax Counsel  
Bill Hilson, Tax Counsel
- B4. Alfred M. Humphries and Jill Humphries, 598220 +**  
For Appellants: Alfred Humphries, Taxpayer  
For Franchise Tax Board: Eric Yadao, Tax Counsel  
Karen Smith, Tax Counsel
- B5a. Christopher Lim, 599567 +**  
**B5b. Gregory J. Lim and Mya Lim, 599568 +**  
**B5c. James E. Lim and Melinda Lim, 599575 +**  
**B5d. Paul T. Liu and Christiana Liu, 599583 +**  
For Appellants: Appearance Waived  
For Franchise Tax Board: Craig Scott, Tax Counsel  
Karen Smith, Tax Counsel
- B6. Antonio Gallo, 595225 +**  
For Appellant: Antonio Gallo, Taxpayer  
Kelly Ballestér, Representative  
For Franchise Tax Board: Eric Yadao, Tax Counsel  
Karen Smith, Tax Counsel
- B7. Richard A. Hall, 533898 +**  
For Appellant: A. Lavar Taylor, Attorney  
For Franchise Tax Board: Leah Thyberg, Tax Counsel  
Michael Cornez, Tax Counsel
- B8. Gabriel Rufus and Shirley Rufus, 599989 +**  
For Appellants: Gabriel Rufus, Taxpayer  
Gary Slavett, Attorney  
For Franchise Tax Board: Sonia Deshmukh, Tax Counsel  
Michael Cornez, Tax Counsel
- B9. Cornelis A. Van Diepen, 560406 +**  
For Appellant: Cornelis Van Diepen, Taxpayer  
For Franchise Tax Board: Eric Yadao, Tax Counsel  
Karen Smith, Tax Counsel

**C. Sales and Use Tax Appeals Hearings**

These items are scheduled for Wednesday and Thursday, February 27-28, 2013.

**D. Special Taxes Appeals Hearing**

This item is scheduled for Thursday, February 28, 2013.

- E. Property Tax Appeals Hearings**  
There are no items for this matter.

**F. Public Hearings****F1. Property Taxes - State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values ..... Mr. Thompson**

1. State assessee's presentations on capitalization rates and other factors and procedures affecting 2013/14 property values of California public utilities, railroads, and pipelines.  
Speaker: Peter W. Michaels, Law Offices of Peter Michaels
2. Private railroad car assessee's presentations on factors and procedures affecting 2013/14 taxable values of private railroad cars.

**G. Tax Program Nonappearance Matters – Consent**(Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)**G1. Legal Appeals Matters ..... Mr. Angeja**

- Hearing Notices Sent – No Response
  1. Charles W. Stevens, Jr., 484491, 605459 (EA)
  2. Gary David Becker, 496519 (UT)
  3. True Care Medical Supply, 539343 (AA)
  4. ~~Rafael Eduardo Delgado and Alexander Orantes, 549061 (AC)~~
  5. ~~Bar Codes Unlimited, Inc., 523577 (FH)~~
  - 6a. Rechem International, Inc., 433605 (AP)
  - 6b. Q.S.M. Enterprise, Inc., 433709 (AP)
  7. Gustavo De La Rosa, 486211 (AA)
  8. Paoli's Italian Kitchen, Inc., 381891 (AC)
  9. Techniform Metal Curving, Inc., 529775 (EH)
  10. Plattinum Boat Works, Inc., 491247 (UT)
  11. Scenario Design, Inc., 533881 (AA)
  12. Hien Thu Tran, 525183 (EA)
  13. Juan O. Martinez, 556412 (EA)
  14. Lori A. Lewandowski and David Anthony Lewandowski, 550177 (AR)
  15. ~~Antique Portraiture, Inc., 532576 (AA)~~
  16. Daebak Investment, Inc., 556493 (AA)

**G2. Franchise and Income Tax Matters ..... Mr. Epolite**

- Hearing Notices Sent – No Response
  1. James W. Fletcher and Lisa M. Fletcher, 604801
  2. Jerome James, 596166
- Decisions
  3. James Cline and Vera Cline, 578466
  4. Michael D. Hellman and Kara M. Munro Hellman, 588781
  5. Gordon R. Kindschi, 594033
  6. Richard Krulik, 561672
  7. Khosrow J. Motamedi, 592901
  8. Nextgen Web, LLC, 578135
  9. Keith Ponthieux, 572392

10. Priscilla Rodriguez, 589179
  11. Rogelio Rodriguez, 586119
  12. William Tauchar, 573100
  13. Trim-Tex, Inc., 536303
  14. Christian W. Wilbert and Estate of Ilsa Wilbert (Deceased), 597671
- G3. Homeowner and Renter Property Tax Assistance Matters  
There are no items for this matter.
- G4. Sales and Use Taxes Matters .....Mr. McGuire
- Redeterminations
    1. Stephen J. Hansen, 486259 (UT)
    2. Timothy Allen Prero, 487585 (UT)
    3. Scott Michael Kmety, 624828 (FH)
    4. Rincon Industries, Inc., 604031 (GH)
  - Denials of Claims for Refund
    5. GMRI, Inc., 625632 (OH)
    6. GMRI, Inc., 624783 (OH)
  - Grant-One Day Interest Relief
    7. PA Acquisition Corp., 675647 (OH)
    8. Aeropostale West, Inc., 675630 (OH)
    9. Granite Construction Company, 675643 (GH)
    10. Trader Joe's Company, 668950 (AP)
    11. Arthur Koroyan, 675633 (DF)
    12. Party City Corporation, 675651 (OH)
    13. ASML US, Inc., 675635 (OH)
    14. Process Instruments & Controls, LLC, 675653 (DF)
    15. Hyphenet, Inc., 675645 (FH)
    16. Brocca, Inc., 675637 (CH)
    17. PA Acquisition Corp., 675649 (OH)
    18. G E K Enterprises, LLC, 675640 (FH)
- G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds .....Mr. McGuire
- Credit and Cancellation
    1. Corjen, Inc., 665547 (FH)
  - Refunds
    2. LBS Financial Credit Union, 611754 (EA)
    3. Rusnak/Pasadena, 570832 (AP)
    4. Rusnak/Westlake, 570835 (AR)
    5. Calportland Company, 601367 (AP)
    6. AMVETS Dept. – California Service Foundation, 605543 (FH)
    7. Newport Corporation, 675510 (EA)
    8. Magnuson Corporation, 612118 (OH)
    9. Coxcom, Inc., 607817 (OH)
    10. Paradise Valley Hospital, 531178 (FH)
    11. Stanford University Hospital, 570549 (GH)
    12. Inter-State Oil Co., Inc., 626166 (KH)

13. Regents of the University of California, 560151 (JH)
14. VW Credit, Inc., 531401 (OH)
15. Zenith Insurance Company, 531324 (AC)
16. Chrysler, LLC, 649566 (OH)
17. Lacerte Software Corporation, 600132 (OH)
18. PNC Equipment Finance, LLC, 605538 (OH)
19. Seagate Technology, LLC, 558351 (GH)
20. EV Group, Inc., 613813 (OH)
21. J.C. Penney Company, Inc., 605403 (OH)
22. Teradyne, Inc., 654998 (OH)
23. Arrowhead Central Credit Union, 623749 (EH)
24. SchoolsFirst Federal Credit Union, 611719 (EA)
25. Americredit Financial Service, Inc., 633034 (OH)
26. Lobel Financial Corporation, 632989 (EA)
27. A-L Financial Corp., 609082 (EA)
28. Valencia B. Imports, Inc., 552837 (AR)
29. Pacific Biosciences of California, Inc., 566549 (BH)
30. Harley-Davidson Credit Corp., 611790 (OH)
31. New Albertsons, Inc., 559118 (OH)
32. Quality Financial, Inc., 549125 (AC)
33. Pacific Biosciences of California, Inc., 651376 (BH)

- G6. Special Taxes Matters ..... Mr. Gau
- Relief of Penalty
    1. Tesoro Refining and Marketing Co., 682019 (STF) 'CF'

There are no items for the following matters:

- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
- G8. Property Tax Matters
- G9. Cigarette License Fee Matters
- G10. Legal Appeals Property Tax Matters

## H. Tax Program Nonappearance Matters – Adjudicatory

(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

- H1. Legal Appeals Matters ..... Mr. Angeja
- Case Heard Not Decided
    1. [East Coast Foods, Inc., 444779 \(AS\) +](#)
- H2. Franchise and Income Tax Matters ..... Mr. Epolite
- Case Heard Not Decided
    1. ~~Daniel R. Marcotte, 589131~~
    2. ~~James J. Martin, 574254~~
    3. Jimmy A. Prince, 535124

There are no items for the following matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters
- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds
- H8. Property Tax Matters
- H9. Cigarette License Fee Matters
- H10. Legal Appeals Property Tax Matters

#### **I. Tax Program Nonappearance Matters**

(Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)

- I1. Property Taxes Matters  
There are no items for this matter.
- I2. Offer in Compromise Recommendations .....Mr. Anderson
  - 1. DMZ Wireless, Inc.
  - 2. Kimberly Michele Manko
  - 3. Esmail Sorkhpoosh
- I3. Local Tax Reallocation Matters  
There are no items for this matter.

#### **Chief Counsel Matters**

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

#### **Administrative Session**

Items that appear under these matters provide information to the Members and may require Board action or direction.

#### **N. Consent Agenda ..... Ms. Richmond** (Contribution Disclosure forms not required pursuant to Gov. Code, § 15626.)

##### **N1. 2013/14 Excise Tax Rate Setting (Fuel Tax Swap) + (Rescheduled to February 28, 2013)**

Request approval of the new excise tax rates for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, 2013, which are required by current law to be determined by BOE on an annual basis.

**N2. Approval of 2013/14 Diesel Fuel Tax Rate for Interstate Users Component b +**

Staff recommendation for setting the 2013/14 diesel fuel tax rate for interstate users component b.

**N3. Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel +**

Section 6480.1 of the Revenue and Taxation Code requires the Board to determine annually, by March 1, the rate at which sales tax on motor vehicle fuel, diesel fuel, and jet fuel is to be collected at the time such fuel is first distributed in the state during the twelve-month period beginning the following July 1.

**O. Adoption of Board Committee Reports and Approval of Committee Actions**

O1. Legislative Committee – January 15, 2013

O2. Business Taxes Committee – January 15, 2013

**P. Other Administrative Matters**

P1. Executive Director's Report ..... Ms. Bridges

**1. Employee Recognition Award Program +**

Approval of nominees for the BOE Employee Recognition Award Program.

**2. CROS Project Update and Actions .....Mr. Steen**

Progress on the CROS project to replace BOE's two current tax legacy technology systems.

**3. Taxpayers' Rights Advocate's 2011-12 Property and Business Taxes Annual Report + .....Mr. Gilman**

Presentation of Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of cases illustrating services provided.

There are no items for the following matters:

P2. Chief Counsel Report

P3. Sales and Use Tax Deputy Director's Report

P4. Property and Special Taxes Deputy Director's Report

P5. Administration Deputy Director's Report

P6. Technology Deputy Director's Report

P7. External Affairs Deputy Director's Report



Announcement of Closed Session ..... Ms. Richmond

**Q. Closed Session**

Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code, §§ 6901, 7093.5, 30459.1, 50156.11).

Q2. Discussion and action on personnel matters (Gov. Code, § 11126(a)).

Announcement of Open Session..... Ms. Richmond

**Recess** - The meeting will reconvene on Wednesday, February 27, 2013, at 9:30 a.m.

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Joann Richmond, Chief  
Board Proceedings Division

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**C. Sales and Use Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

**C1. Rafael Wholesale & Distributor, Inc., 530276 (AA) +**

For Petitioner: Rafael Hasbun, Taxpayer  
Laura Hasbun, Taxpayer  
Jack P. Chaiyakam, Representative  
For Department: Cary Huxsoll, Tax Counsel

**C2. Benalex Windows & Doors, Corp., 446664 (AA) +**

For Petitioner: Elliott Speiser, Attorney  
For Department: Scott Lambert, Hearing Representative

**~~C3. Edward Louis Komski, 475346 (EA)~~**

~~For Petitioner: Edward Louis Komski, Taxpayer~~  
~~Lisa Welch Silbar, Attorney~~  
~~For Department: Pamela Mash, Tax Counsel~~

**C4. Montana Ave Restaurant, Inc., 495272, 527587 (AS) +**

For Petitioner/Claimant: Jack A. Srebnik, Taxpayer  
Leonard G. Cruz, Attorney  
For Department: Erin Dendorfer, Tax Counsel

- ~~C5. Safwat Tawadros Salib and Wafaa Salib, 534396 (EH)~~  
~~For Petitioners: Juan Guzman, Representative~~  
~~Ruben Perez, Representative~~  
~~For Department: Scott Lambert, Hearing Representative~~
- C6. Jerry Pena, 478061 (EH) +  
For Petitioner: Appearance Waived  
For Department: Scott Lambert, Hearing Representative
- C7. Deanna Robinson Interiors, Inc., 519485 (EA) +  
For Petitioner: Appearance Waived  
For Department: Marc Alviso, Hearing Representative
- C8. Richard Festo Bwogi, 514577 (AS) +  
For Taxpayer: Richard F. Bwogi, Taxpayer  
For Department: Marc Alviso, Hearing Representative
- C9. Life Care Home Health & Medical Supplies, Inc., 495335 (AS) +  
For Petitioner: Shawn Naim, Taxpayer  
Joseph Boodaie, Representative  
For Department: Marc Alviso, Hearing Representative
- C10. AF Services, LLC, 527382, 577082 (AS) +  
For Taxpayer/Claimant: Ferdinand Alfajora, Representative  
For Department: Erin Dendorfer, Tax Counsel

**Recess** - The meeting will reconvene on Thursday, February 28, 2013, at 9:30 a.m.

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**Special Presentations**

2011/2012 Employee Recognition Award Program ..... Ms. Herrera

The Board will announce and congratulate recipients of the Employee Recognition Awards who work in the Southern California and Out of State District Offices.

**Administrative Session**

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Request approval of the new excise tax rates for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, 2013, which are required by current law to be determined by BOE on an annual basis.

**C. Sales and Use Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

**C11. T & M Steel Services, Inc., 530730 (EH) +**

For Taxpayer: Appearance Waived  
For Department: Cary Huxsoll, Tax Counsel

**C12. Tri-Signal Integration, Inc., 384478 (AC) +**

For Petitioner: Robert McKibben, Representative  
Dennis Furden, Representative  
For Department: Marc Alviso, Hearing Representative

~~**C13. Stephan Sardaryan, 533112, 613435 (AS)**~~

~~For Petitioner/Claimant: Stephan Sardaryan, Taxpayer  
For Department: Scott Claremon, Tax Counsel~~

**C14. Rafael Navarro Martinez, 587802 (AP) +**

For Taxpayer: Appearance Waived  
For Department: Scott Lambert, Hearing Representative

**C15. Francis Stephan Ghosal, 445460, 464724, 468127 (FH) +**

For Petitioner: Francis Ghosal, Taxpayer  
For Department: Scott Lambert, Hearing Representative

**D. Special Taxes Appeals Hearing**

(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

**D1. Loh Sun International, Inc., Kent La, Nancy La and John La, 480987, 480989, 506428 (STF) +**

For Petitioners: John La, Taxpayer  
Nancy La, Taxpayer  
For Department: Pamela Mash, Tax Counsel

**Adjourn**

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